

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In the Matter of

Auction of Licenses for the  
700 MHz Guard Bands

)  
)  
) DA 00-559  
) WT Docket No. 99-168  
)

RECEIVED  
MAR 29 2000  
OFFICE OF THE SECRETARY

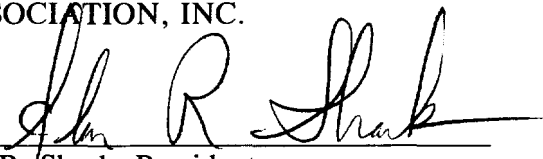
To: Wireless Telecommunications Bureau  
Federal Communications Commission

REPLY COMMENTS OF THE  
AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION, INC.

Respectfully submitted,

AMERICAN MOBILE TELECOMMUNICATIONS  
ASSOCIATION, INC.

By:

  
Alan R. Shark, President  
1150 18th Street, N.W., Suite 250  
Washington, D.C. 20036

Of Counsel:

Elizabeth R. Sachs, Esq.  
Lukas, Nace, Gutierrez & Sachs, Chartered  
1111 19th Street, N.W., Suite 1200  
Washington, D.C. 20036  
(202) 857-3500

No. of Copies rec'd  
List ABCDE

04 //

March 29, 2000

The American Mobile Telecommunications Association, Inc. ("AMTA" or "Association") hereby respectfully submits its Reply Comments in response to the Federal Communications Commission ("FCC" or "Commission") Public Notice inviting comments on the proposed auction procedures, including the upfront payment requirements and minimum opening bids, for the recently-allocated 700 MHz Guard Band spectrum.<sup>1</sup> AMTA is pleased, but not surprised, that the record fully supports the Association's recommendation that both payment requirements be reduced to foster a competitive auction process in which applicants of all sizes have a meaningful opportunity to participate.

## **I. DISCUSSION**

The parties to this proceeding generally supported the FCC's proposed auction structure for this spectrum. However, each of the commenting parties also specifically noted that the proposed upfront payments and minimum opening bids were unreasonably high.

### **A. Commenters Agree That The Guard Band Spectrum Is Too Heavily Encumbered to Support the Auction Payments Proposed.**

Motorola, Inc. ("Motorola"), like AMTA,<sup>2</sup> focused on the level of TV incumbency in suggesting that the payment obligations be reduced.<sup>3</sup> Both AMTA and Motorola further took note of the potential interference from users of the remaining 30 MHz of commercial spectrum at 700 MHz in all markets.<sup>4</sup> The Industrial Telecommunications Association, Inc. ("ITA") asked the

---

<sup>1</sup>Public Notice, Auction of Licenses for the 700 MHz Guard Bands Scheduled for June 14, 2000, DA 00-559 (rel. March 10, 2000) ("Notice").

<sup>2</sup>AMTA, Comments (Mar. 22, 2000).

<sup>3</sup>Motorola, Inc., Comments, at 2-3 (Mar. 22, 2000).

<sup>4</sup>Id.

Commission to consider that the Guard Band Manager's obligation to protect adjacent channel public safety users from interference also erodes the utility of the band.<sup>5</sup>

As previously noted by AMTA, individually, these factors will impact when Guard Band spectrum will be useable in the markets of greatest spectrum demand, what portion of it will prove commercially viable, and how efficiently it can be deployed. Collectively, they support a reduction in both the upfront payments and minimum opening bids in the Guard Band auction.

**B. A Reduction in Proposed Auction Payments Would Promote a Competitive Auction with Small Business Participation.**

In its comments Mobex Communications, Inc. ("Mobex") asserted that the Commission's suggested minimum opening bids are cost prohibitive for most small businesses.<sup>6</sup> Citing the average opening bid of \$469,000, Mobex argued that as bidding commences only those corporations with "deep pockets" will be successful. Larger corporations and interests who have the financing and backing will force smaller businesses from the auction in the early rounds.<sup>7</sup> AMTA also noted that many will be reluctant to participate in the auction if the cost of securing an opportunity to bid is tied more to CBO expectations than to the actual value of the spectrum. The Commission should also be aware that those few parties able to take part in the auction successfully will have to pass on unreasonably high acquisition costs to potential lessees, thus again negatively impacting, if not eliminating, the many small entities that would otherwise create business plans for efficient use of the Guard Bands.

---

<sup>5</sup>Industrial Telecommunications Association, Inc., Comments at 3 (Mar. 21, 2000)

<sup>6</sup>Mobex Communications, Inc., Comments at ¶¶ 10-13.

<sup>7</sup>Id.

The Commission should lower the Guard Band auction payments to ensure that small businesses are given a realistic opportunity to participate in this auction.

**C. The FCC Should Revise the Values for Upfront Payments and Minimum Opening Bids To Those Proposed by Motorola.**

In its comments AMTA contrasted the Guard Band auction with the 220 MHz auction and recommended that the Commission reduce both the upfront payments and the minimum opening bids for the Guard Band spectrum to one-third or one-quarter of their current valuations to bring them in line with the 220 MHz auction figures.<sup>8</sup> Motorola also compared the Guard Band spectrum with 220 MHz spectrum.<sup>9</sup> The company asked the Bureau to modify its upfront payments and minimum opening bids in accordance with the 220 MHz valuations, with further reductions in markets encumbered by co-channel and adjacent channel television stations. Specifically, Motorola proposed that opening bids be calculated using a formula which incorporates the factor of population, just as it did for the 220 MHz auction. In addition, Motorola urged the Bureau to maintain the proposed ratio between minimum opening bids and upfront payments of 33 percent.<sup>10</sup>

AMTA fully supports Motorola's proposal and urges the Commission to use the upfront payments and minimum opening bid formulas proposed by Motorola as absolute upper limits with further reductions in markets that are encumbered. The Association is confident that lowering

---

<sup>8</sup>AMTA Comments at 8.

<sup>9</sup>Motorola Comments at 4-6.

<sup>10</sup>*Id.* at 5.

those initial obligations will draw a much greater number of auction participants and let marketplace forces, not government estimates, dictate the final bid price.

### **III. CONCLUSION**

14. For the reasons described above, AMTA urges the FCC reduce the proposed Guard Band auction payments as proposed herein.

## CERTIFICATE OF SERVICE

I, Linda J. Evans, a secretary in the law office of Lukas, Nace, Gutierrez & Sachs, hereby certify that I have, on this March 29, 2000 caused to be mailed, first-class, postage prepaid, a copy of the foregoing Reply Comments to the following:

Chairman William E. Kennard  
Federal Communications Commission  
445 12<sup>th</sup> St., S.W., Rm. 8-B201  
Washington, D.C. 20054

Commissioner Susan Ness  
Federal Communications Commission  
445 12<sup>th</sup> St., S.W., Rm. 8-B115  
Washington, D.C. 20054

Commissioner Harold Furchtgott-Roth  
Federal Communications Commission  
445 12<sup>th</sup> St., S.W., Rm. 8-A302  
Washington, D.C. 20054

Commissioner Michael Powell  
Federal Communications Commission  
445 12<sup>th</sup> St., S.W., Rm. 8-A204  
Washington, D.C. 20054

Commissioner Gloria Tristani  
Federal Communications Commission  
445 12<sup>th</sup> St., S.W., Rm. 8-C302  
Washington, D.C. 20054

Thomas Sugrue, Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> St., S.W., Rm. 3-C207  
Washington, D.C. 20054

Kathleen O'Brien-Ham, Deputy Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> St., S.W., Rm. 3-C207  
Washington, D.C. 20554

James D. Schlichting, Deputy Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> St., S.W., Rm. 3-C207  
Washington, D.C. 20054

Amy Zoslov, Chief  
Auctions and Industry Analysis Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12th St., S.W., Rm. 4A-624  
Washington, D.C. 20054

Mark Bollinger, Deputy Chief (Legal)  
Auctions and Industry Analysis Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12th St., S.W., Rm. 4A-624  
Washington, D.C. 20054

Louis Sigalos, Deputy Chief (Operations)  
Auctions and Industry Analysis Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12th St., S.W., Rm. 4A-624  
Washington, D.C. 20054

Rana Shuler  
Auctions and Industry Analysis Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 Twelfth St., S.W., Ste. 4-A628  
Washington, D.C. 20554

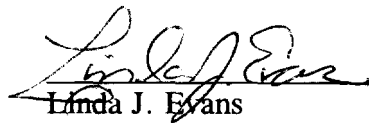
Steve Weingarten, Chief  
Commercial Wireless Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> St., S.W., Rm. 4-C207  
Washington, D.C. 20054

D'wana R. Terry, Chief  
Public Safety & Private Wireless Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12th St., S.W., Rm. 4C-321  
Washington, D.C. 20554

Kris Monteith, Chief  
Policy Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> St., S.W., Rm. 3-C120  
Washington, D.C. 20054

International Transcription Services, Inc.  
1231 20<sup>th</sup> St., N.W.  
Washington, D.C. 20036

Office of Media Relations  
Public Reference Center  
445 Twelfth St., S.W., Ste. CY-A257  
Washington, D.C. 20554



---

Linda J. Evans